

MDR Tracking Number: M5-04-0531-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on October 21, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with § 133.308(r)(9), the Commission hereby Orders the respondent and non-prevailing party to **refund the requestor \$650** for the paid IRO fee. For the purposes of determining compliance with the Order, the Commission will add 20-days to the date the Order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits manipulation, injections, unclassified drugs, unlisted modality, and prolonged evaluations were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 11/11/02 through 04/09/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 30<sup>th</sup> day of December 2003.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PNR/pnr

December 18, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor board certified and specialized in Physical Medicine and Rehabilitation. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ is a 40-year-old female who, while lifting a patient to a bedside commode, the patient's legs collapsed and they both fell. \_\_\_ started having pain in her low back into the lower extremities, left greater than right. She was seen by a doctor, evaluated and referred to an orthopaedist. She had a lumbar MRI on June 24, 1999 by \_\_\_. Findings include a transitional lumbosacral vertebra, designated S1 with hypoplastic S1-2 disc and facet joint, mild ventral dural deformity and a six mm residual mid sagittal dural diameter, bilateral facet recess encroachment at L5/S1 relating to prominence of superior facts at L1 and bilateral foraminal encroachment due to lateral protrusion of the annulus of L4/5. Her care was transferred to \_\_\_ and remains with \_\_\_ at the present time. She was prescribed therapies and pain medication on April 25, 2000. The patient was seen by \_\_\_, who recommended selective nerve root block and sacroiliac joint injections as well as trigger point injections. On 10/8/99 she had a post myelogram lumbar CT that identified transitional lumbosacral junction and a right paramidline disc herniation L4/5 with caudal extension of disc material on the right paramidline location.

On April 5, 2001, \_\_\_\_ determined that her 2/8/00 MMI by her treating doctor was accurate the 7% whole person impairment rating was correct. \_\_\_\_ felt that treatments after 2/8/00 were not necessary, which included the epidural lysis with Wyardase, the chiropractic care and therapies. The patient had a good response to \_\_\_\_ treatments. She saw \_\_\_\_ who recommended that she have EMG nerve conduction studies. These EMG studies evoked potential studies.

Electrophysiological studies suggested mild to moderate chronic persistent right-sided L5 radiculopathy, more than left sided root irritation and mild nerve root irritation bilaterally to L4 on August 27, 2002. She had intermittent flare-ups of her pain from 11/11/02 to 4/9/03 and was provided treatments by her treating doctors.

#### DISPUTED SERVICES

Under dispute is the medical necessity of OV manipulation, injections, unclassified drugs, unlisted modality, and prolonged evaluations from 11/11/02 through 4/9/03.

#### DECISION

The reviewer disagrees with the prior adverse determination.

#### BASIS FOR THE DECISION

\_\_\_\_ had documented lumbar MRI findings of disc herniation and EMG/NCS/SSEP confirmation of neuropathy. She had reasonably good response from \_\_\_\_ treatments. She continued to have residual pain that was treated by her treating doctors. It is the reviewer understanding that injured workers are allowed to be treated for their injuries on an ongoing basis after they sustain a work-related injury. \_\_\_\_ chose to ignore the documented findings and give recommendations that were not the standard of care. Her treating doctors followed appropriate treatment guidelines in providing care to the impaired worker.

\_\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,